IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTH DAY OF APRIL,
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 5615 of 2005

Between:

Sri P. Umapathi Rao, S/o Venkateswarlu,
Unit Office of Motor Vehicles Inspector,

Markapur, Prakasam District.

..... PETITIONER

AND

1 The Commissioner, State Transport Authority,

Andhra Pradesh, Hyderabad.
2 The Regional Transport Officer,

Narasaraopet, Guntur District.
3 The Deputy Transport Commissioner,

Nellore, Nellore District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Certiorari calling for the records relating to order dt. 22-7-2004 passed in O.A.No. 1838/2000 by the A.P. Administrative Tribunal, Hyderabad and set aside the same and consequentially direct the respondents to consider the case of the petitioner for promotion as Senior Assistant and as Superintendent

with retrospective effect taking into consideration of his appointment as Junior Assistant w.e.f. 10-11-1976 with all consequential benefits, and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.VENKATESWARLU POSANI

Counsel for the Respondents: GP FOR TRANSPORT

The Court at the admission stage made the following :

ORDER: (Per GB,J)

This writ petition is filed assailing the order dated 22-07-2004 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, in O.A.No.1838 of 2000.

2. The matter relates to the fixation of seniority among the cadre of Senior Assistants in the Transport Department.

3. The petitioner was initially appointed in the Transport Department as Junior Assistant. Thereafter, vide proceedings dated 26-07-1986, he was transferred to Commercial Tax Department. After working for four years in the Commercial Tax Department, again, the petitioner came back to the Transport Department. After joining in the Transport Department, tentative seniority list was prepared in November 1996. However, the petitioner did not raise objection at that time. But, after a lapse of more than three years, he raised an objection stating that his services put in the Commercial Tax Department should be taken into consideration for the purpose of fixing seniority. When the case of the petitioner was not considered by the Deputy Transport Commissioner, Nellore, in R.No.578/A1/99, dated 29-01-2000, he filed O.A.No.1838 of 2000 before the Tribunal. The Tribunal, after considering the matter, dismissed the O.A. on the ground that there were unexplainable laches on the part of the petitioner. Against the said order, the present writ petition has been filed.

4. The learned counsel for the petitioner submits that he is having a right to be considered for higher post basing on the services put in by him in the Commercial Tax Department and the question of making objection would not arise and the Tribunal has not taken into consideration this aspect and erroneously dismissed the O.A.

5. We are afraid, we are not in a position to accept the said contention.

6. However, the Tribunal discussed this issue in 'para-7' of the Order, which reads as thus:

> "As we see the facts of the case, it is not shown by producing any documents before the Tribunal as to on what conditions, he was transferred to Commercial Tax Department. Equally, he did not file the petition filed by him for re-transferring to Transport Department. Even ignoring that fact, since the applicant's services are not regularized in Commercial Tax Department, and prima facie accepting the contention of the applicant that he has got a lien in the Transport Department, as correct, still when a provisional seniority is issued as long back in September, 1996, he did not choose to file objections. Even after finalizing the final seniority list in November, 1996, he did not raise objections within a reasonable time. Now, after a lapse of 3 years, even without exhausting the remedy of filing an appeal before the Additional Commissioner, the applicant seeks to disturb the settled seniority by approaching this Tribunal."

7. In view of the specific observation made by the Tribunal, we are not inclined to interfere with the order passed by the Tribunal.

8. Accordingly, the writ petition is dismissed. No costs.

_____

G. BIKSHAPATHY, J

_____

P.S.NARAYANA, J

Date: 06-04-2005

Prv

To

1 The Commissioner, State Transport Authority,

Andhra Pradesh, Hyderabad.
2 The Regional Transport Officer,

Narasaraopet, Guntur District.
3 The Deputy Transport Commissioner,

Nellore, Nellore District.

4 Two CCs to G.P. for Transport, High Court of A.P.,

Hyderabad (OUT).

5 Two CD copies

6 1 CC to MR.VENKATESWARLU POSANI

7. The Registrar, A.P.Administrative Tribunal,Hyderabad.